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BY THE SENATE,

FEBRUARY 19, 1868.

Read and 200 copies ordered to be printed.

By order,

AUGUSTUS GASSAWAY,

Secretary.

MEMORIAL

FROM THE

VISITORS AND GOVERNORS

OF

WASHINGTON COLLEGE

TO THE

GENERAL ASSEMBLY OF MARYLAND.

ANNAPOLIS:

WM. THOMPSON, OF R., PRINTER.

1868.

MEMORIAL.

To the Honorable,

The General Assembly of Maryland:

The undersigned, Visitors and Governors of Washington College, Kent county, Maryland, respectfully submit to your Honorable Body the following memorial, which they beg that you will take into your serious consideration, being convinced that it will need nothing further to insure a favorable reception:

Your memorialists ask leave, in the first place, to call your attention to the several Acts of Assembly creating, endowing and regulating Washington College, with a view to set clearly and succintly before you the purpose and scope of these Acts, and thereby to enforce more fully and pointedly the propriety and justice of this memorial.

The original Act establishing Washington College was passed in 1782, chapter 8th, and was dictated by an enlightened and liberal spirit, as will appear by reference to its provisions. It was established on a scale commensurate with the dignity and high purposes of such an institution, and entered upon existence under most favorable auspices.

The Act of 1784, chapter 7th, in pursuance of the same enlightened and liberal policy, enacted "that the sum of twelve hundred and fifty pounds (£1,250) current money be annually and *forever hereafter* given and granted as a donation by the public to the use of Washington College, for the payment of salaries to the Principal, Professors and Tutors of said College," and in the preamble of that Act declares as a reason for this donation "that institutions for the education of youth, under the care and patronage of the State, have

ever been encouraged by the wisest nations as the most effectual means of disseminating the principles of religious and civil liberty, private and public virtue, and those liberal arts and sciences which are at once the greatest ornament of a free republic, and the surest basis of its stability and glory."

This Act also designated certain sources of revenue to be reserved by the Treasurer for the purposes of this donation, laying a tax upon hawkers and peddlers, and creating forfeitures and penalties of various kinds, besides appropriating a portion of the tax previously laid upon marriage and ordinary licenses for the same purpose, thus making specific and permanent provision for the prompt and regular payment of the donation which had been granted, in their own words, by reason of their "desire, as far as the public circumstances would permit, to encourage a seminary so successfully begun, and intended to be forever dedicated and carried on by the name of Washington College, in honorable and perpetual memory of that illustrious and virtuous commander."

Later in the same year St. John's College was founded, and received a State donation of seventeen hundred and fifty pounds, (£1,750,) together with a grant of four acres of land in the city of Annapolis for the erection of college buildings.

So far the course of the State was such as to promise a glorious future to these Colleges, and had this course been continued your memorialists would not now be compelled to seek aid from the State in order to maintain their usefulness. But it was not so. In 1798, (chapter 107,) five hundred pounds (£500) of this donation was discontinued for the purpose of distributing that amount among different schools and academies of the State, while the donation to St. John's College was continued undiminished. From this date the broad and comprehensive spirit in which Washington College had been founded, seemed to forsake our Legislators, and the fatal policy was adopted of frittering away the resources of the State in small donations to different schools, until in 1805, (chapter 85,) the whole donation, both of Washington and St. John's College, was discontinued, and directed to be thereafter applied to the dissemination of education in different counties of the State.

For six years after this the State gave no aid whatever to Washington College, but in 1811, by resolution 51, the Treasurer was directed to pay to Washington College the annual sum of eight hundred dollars ($800,) which in 1834, by resolution 64, was reduced to five hundred dollars (500.)

In 1823 a general law was passed requiring each College

and school of the State receiving a donation, to give free tuition in all branches to one scholar for every hundred dollars ($100,) of such donation, subsequent to the passage of which law, Washington College has always given such free tuition either under the above general law or under special laws subsequently enacted.

In 1848, by resolution 31, the sum of fifteen hundred dollars ($1,500) in addition to the sum then paid, was granted to Washington College, and in consideration thereof the Visitors and Governors were required to board, educate and provide all necessary books and stationery to one indigent scholar from each of the then existing counties on the Eastern Shore. But this donation was granted only upon condition, that the Visitors and Governors would waive any claim which they might have or be supposed to have against the State.

In 1856, (chapter 219,) the further sum of one thousand dollars ($1,000,) was granted additional compensation for the boarding and education of the eight free scholars, making our present annual donation three thousand dollars ($3,000.)

In 1858 the Governor was directed by a resolution of the General Assembly to obtain the opinion of the Court of Appeals as to the validity of the Act of 1798 and 1805, and to report the same to the next session of the Legislature, it being thought that these Acts were a violation of the tenth section of the first Article of the Constitution of the United States, which forbids the States to pass any laws impairing the obligation of contracts.

Your memorialists are informed that in the year 1860 the Court of Appeals rendered a decision, (15th Md. Reports, page 330,) denying the right or power of the Legislature to repeal the donation granted in the charter of St. John's College, the repeal being declared contrary to the Constitution of the United States. Your memorialists therefore submit, that in view of these facts, they have on justice and equity a valid claim against the State for their own arrears of donation, even if precluded in law by the acceptance of the resolution of 1848, from contesting such claim. It is not our purpose however to present an arbitrary demand for any such arrears, but by reciting the different Acts referred to, to show in the first place the liberal endowment evidently designed to be a permanent one, and which if steadily continued would have made Washington College long ere this powerful and opulent, and in the second place to set before you those later enactments of the State, which crippled our resources at a time we most needed our full strength, and

which have since, by a recent decision of our highest Court, (in case of St. John's College above referred to,) been adjudged void.

We acknowledge gratefully, the aid extended by the State since 1848, but we do not feel that we ask anything unreasonable in asking further aid. We would have received, if the donotion of £1250 had been regularly paid since 1784, up to the present time, the sum of two hundred and seventy-six thousand, six hundred and sixty dollars ($27,660,) whereas, we have actually received up to date, under the various modifications of the original law, the sum of one hundred and thirty-six thousand, three hundred and ninety-eight dollars ($136,398) less than half the amount contemplated by the original charter of the College. Out of this amount, too, we have for many years furnished free tuition and board to scholars ; whereas, the whole of the original donation was expressly granted for the payment of salaries to professors. The years during which we struggled on with none or very small aid, prevented any such accumulation of funds as was reasonably expected during the early experience of the College, and by reducing our ability to compete with other and more favored institutions, kept us from gathering that accession of students, who by their numbers would have brought stability and success. The recent war has still further weakened us, and we are now suffering from poverty, unable to compete with the wealthier Colleges of adjoining States, and unable to offer those advantages to the young men of Maryland which they seek in vain in their native State.

There is a disposition prevailing everywhere throughout our State, to encourage home institutions, if it can be done without too great a sacrifice of advantage, and we now ask for aid to enable us to offer to the parents of Maryland such an institution as will justify them in committing their sons to its care with full confidence that they do them no injustice. We ask only a small additional donation for this purpose, and beg to propose to your Honorable Body a form in which we feel confident it will be most useful and acceptable to the College, and to the public.

Under the terms of our present donation, we board and educate, free of charge, one needy scholar from each of the original eight counties on the Eastern Shore, and also furnish, free of charge, all necessary books and stationery for the course of five years. We would propose as a substitute for this plan, to take two needy scholars from each county in the State, and two from each Legislative District of Baltimore city (making fifty in all), and to give such scholars free tuition in all the branches of the College course, (but not board

and books,) provided, your Honorable Body will grant us an annual donation of five thousand dollars. This change, we are convinced, would be to the mutual advantage of the public and College. To the advantage of the public, because it would extend the means of liberal education to a much larger number number of pupils, and distribute this advantage uniformly throughout the State; to the advantage of the College, because it would give us a fixed reputation in every portion of the State, and through those pupils in the course of a few years, give us an influence which would be powerful in future additions to the numbers of the College. It is the experience of the oldest Visitors of the College, some of whom have been such for forty years, that under the present system our free scholars are of a class, as a general thing, who do not avail themselves of the full advantages of their situation, and who do not reflect upon the College the credit which might reasonably be expected. We have reason to believe that they are too often sent to us more for the sake of obtaining their board than their education, more for the sake of shifting the parental responsibility of support, than of obtaining mental improvement; and we most respectfully submit to your Honorable Body that in an institution designed for mental culture, where board is only provided to paying scholars, as convenience may dictate, and strictly as incidental, that the public donation, whether large or small, is much more beneficially and wisely expended in procuring mental instruction to a large number of those unable to reach it, than in furnishing an entire living to a smaller number even though the last may be unable to educate themselves.

And it should always be borne in mind, that it is the additional expense of tuition in collegiate institutions which deters so many of the most competent and industrious pupils of common schools from attempting a College course. To furnish both board and tuition, opens the door to all grades and classes, while, to furnish only tuition, invites mainly those who have had the means to procure the rudiments of education, but whose resources are inadequate to enable them to pursue the duties they have begun.

But if your honorable body should not grant our request for an additional donation, we still beg that you will so amend our present free system as to permit us to furnish tuition only, in consideration of the present donation, to one scholar from each county in the State, and from each legislative district of Baltimore city, making twenty-five in all.

In conclusion, we beg leave to direct your attention most respectfully to the general policy of encouraging liberal ed-

ucation by State aid, and of the peculiar fitness of the present time for such a work.

In the State of Virginia, where the policy of liberally aiding one or two State institutions is adopted, the most gratifying results are apparent. Her University, founded less than fifty years ago, and her Military Institute, have taken a rank with the wealthiest and most prosperous Colleges of the country, and challenge even the time-honored schools of Europe, in point of scholarship, both among professors and students, while the State is filled with private schools of the highest grade. The University extends free tuition to a very large number of students, taken from every quarter of the State, in consideration of the State donation, and these students, though always poor, compare favorably with any of the College in scholarship and character. It is so at the College of New Jersey, and at all the Colleges of the North, free tuition being extended to many, but free board to none, so far as your memorialists have been able to learn.

Whatever may have been the argument employed heretofore in favor of distributing the aid of the State among different schools, it is certainly much weakened at this time. The public school system, which is now in force, and that which is to be matured as a substitute by your honorable body for the present system, after the present year, will necessarily provide such a common school system as will furnish good, thorough, practical education to all, by the uniform State tax for school purposes, quite as advanced as that furnished by a large majority of the schools and academies formerly or now aided by the State, leaving the State free, if her representatives should see fit, to increase the aid given to her oldest collegiate institutions.

Washington College is the oldest institution of the kind in the State, and is not without some historic reminiscences worthy of recognition. General Washington was at one time a visitor, and one of the earliest donors to the funds of the College. It numbers, among its older graduates, many who have done honor to their State. That it is not now more flourishing, is due mainly, if not altogether, to the withdrawal of the State donation before it had been allowed to gather those proportions which would have ensured its subsequent success, even though unaided. The Visitors have repaired and refitted their buildings throughout, and they are now in thorough good condition, prepared for the comfortable accommodation of one hundred and fifty or two hundred students. The Faculty is composed of men of the highest attainments in their respective branches, and of large experience in the art of instruction. The Visitors are now making

every exertion to revive the prosperity and extend the usefulness of the College, not without cheering prospects of success.

In this juncture, they appeal earnestly to the State to lend a helping hand, and to grant to them the aid which an examination of their circumstances will show to be so valuable, and from which the revival, in great part, of their ancient prosperity may be expected. It is not a large donation which they ask, nor can it bear heavily upon the Treasury of the State. The recent assessment shows an enormous increase in the wealth and resources of the State, and must soon bring large sums into the public Treasury. The State has recently paid four millions of dollars for bounties to soldiers. Can she not also afford to pay this trifling sum to the cause of education in Washington College, which will raise up defenders for her future years as zealous and true as any of the past.

It is manifest from the form of the resolution of 1858, and from all the circumstances attending the progress of the case before the Court of Appeals, that the inquiry was instituted in order that the State might repair any injury done to St. John's College by her legislators. And it was so stated in argument by the learned counsel for the College without any contradiction. Indeed it would be a strange spectacle for a State in this advanced and liberal period of society, of its own free will to seek from its highest judicial authority the legal construction of a contract, to which she is a party, and then to disregard that construction and treat with contempt that judicial exposition. Your memorialists do not doubt, therefore, that St. John's College has received or will receive full indemnity for the losses she has sustained by this action in repealing the donation granted in her charter.

The charter of Washington College is in every respect bearing upon this question, precisely similar to that of St. John's—and our case is her case. The original donation was granted for the same special purposes, and with the same general intent, as set forth in the preamble of the Act. The consideration in each case was the same—the subscriptions, present and prospective, of private persons, and the perpetual advancement of education under State patronage. There is the same clause in each, declaring the Visitors incapable of doing any act "contrary to the tenor hereof," or, "in any manner to abridge or destroy its rights, franchises and immunities," declaring all such acts in themselves void, yet expressly providing that the charter "shall be and remain

unhurt, inviolate and entire," notwithstanding such void acts.

What is justice to St. John's College, therefore, is justice to Washington College; and your memorialists are convinced that the State, though it may render tardy, will never mete out partial justice to neither.

All of which is respectfully submitted to your wisdom and discretion, praying your early attention.

P. WROTH, *President.*
B. F. HOUSTON,
GEO. W. T. PERKINS,
GEO. P. WESCOTT,
LAWRENCE M. RICAUD,
DAVID C. BLAKISTON,
THOS. C. KENNARD,
EDWARD WILKINS,
J. A. WICKES,
WM. N. E. WICKES,
THOS. DeC. RUTH,
N. G. WESCOTT,
JESSE R. HINES,
WM. S. WALKER,
J. A. PEARCE,
JOHN L. STEIN,
RICHARD HYNSON.